

Message Text

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SUBJECT: THE STATE SECURITY COURT DISPUTE

SUMMARY. THE ATTEMPT BY THE DEMIREL GOVT TO LEGISLATE A NEW STATE SECURITY COURT LAW BEFORE THE COURTS ARE ABOLISHED OCT 11 HAS RESULTED IN A WAVE OF LABOR PROTESTS (SEPTTEL) AND NEW PROBLEMS WITHIN THE GOVERNING COALITION, AS WELL AS A BITTER PARLIAMENTARY STRUGGLE. THIS CABLE DESCRIBES THE COURTS AND EXAMINES WHY THEY HAVE AROUSED A CONTROVERSY AND WHAT THE OUTCOME MAY BE. END SUMMARY.

1. THE DEMIREL GOVT'S ATTEMPT TO ENACT NEW STATE SECURITY COURT (SSC) LEGISLATION PRIOR TO THE CONSTITUTIONAL COURT-ORDERED DISSOLUTION OF THE SSC'S ON OCT 11 REMAINS BOGGED DOWN BY PARLIAMENTARY MANEUVERING AND BY THE INABILITY OF THE COALITION PARTIES TO AGREE ON THE LANGUAGE AND SCOPE OF NEW LEGISLATION. AT THE NATIONAL ASSEMBLY SESSION SEPT 21, PARTY GROUP SPOKESMEN DEBATED THE JUSTICE PARTY (JP)-SPONSORED BILL WHICH EXCLUDES ANTI-SECULAR CRIMES (ARTICLE 163 OF THE CRIMINAL CODE) FROM

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THE SSC'S MANDATE. HOWEVER, TIMELY ENACTMENT OF THE JP BILL

FACES A PARTICULARLY HARROWING PARLIAMENTARY GAUNTLET:

A. TIME-CONSUMING COMMITTEE CONSIDERATION AND DEBATE ON THREE ALTERNATIVE BILLS, SPONSORED RESPECTIVELY BY JP DEPUTY ATAGUN (ATAGUN'S BILL CONTAINS THE IDENTICAL LANGUAGE OF LAW 1773, WHICH ESTABLISHED THE SSC'S, BUT ARTICLES OF WHICH WERE DECLARED UNCONSTITUTIONAL BY THE CONSTITUTIONAL COURT); THE NATIONAL SALVATION PARTY (NSP)-SPONSORED BILL, WHICH, LIKE THE JP BILL, EXCLUDES ARTICLE 163 CRIMES FROM THE COURTS' MANDATE; AND A REPUBLICAN RELIANCE PARTY (RR)- BACKED BILL GIVING THE SSC' JURISDICTION OVER ARTICLE 163 CRIMES.

B. ON SEPT 22 THE CONSTITUTIONAL COMMITTEE DECIDED TO ATTEMPT TO MERGE THE FOUR BILLS INTO ONE COMPROMISE BILL. IT IS PRESENTLY UNCLEAR WHETHER THE PLENARY WILL AGREE TO THIS OR WILL MOVE FOR A VOTE ON WHETHER TO TERMINATE DEBATE ON THE JP BILL AND PROCEED TO CONSIDERATION OF ITS INDIVIDUAL ARTICLES. IF THE GOVT WINS THIS VOTE, AS SEEMS LIKELY, CONSIDERATION AND DEBATE OF EACH OF THE BILL'S 41 ARTICLES WILL BEGIN; IF IT LOSES, THE JP BILL IS, FOR ALL PRACTICAL PURPOSES, DEAD, AND THE NATIONAL ASSEMBLY WILL EITHER MOVE ON TO CONSIDERATION OF ONE OF THE ALTERNATIVE MEASURES OR OF A COMPROMISE MEASURE. DEBATE OF EACH ARTICLE IS TIME-CONSUMING ENOUGH, BUT THE OPPOSITION REPUBLICAN PEOPLE'S PARTY (RPP), TO FURTHER DELAY PROCEEDINGS, HAS INTRODUCED 337 AMENDMENT MOTIONS, EACH OF WHICH MUST BE INDIVIDUALLY CONSIDERED, UNLESS THE GOVT IS ABLE TO COME UP WITH SOME KIND OF PARLIAMENTARY DODGE.

C. IF PASSED BY THE NATIONAL ASSEMBLY, THE BILL FACES A SIMILAR PROCEDURAL PATH IN THE SENATE.

2. DEBATE OVER THE SSC BILL HAS BROUGHT ABOUT THE MOST PUBLIC FALLING OUT TO DATE AMONG THE PERPETUALLY DISTURBED COALITION PARTNERS. RR CHAIRMAN FEYZIOGLU, WHOSE PARTY CLAIMS TO BE THE ONLY PARTY TOTALLY FAITHFUL TO ATATURKIAN PRINCIPLES, HAS ACCUSED PRIMUM DEMIREL OF SIDING WITH THE ENEMIES OF THE REPUBLIC BY HIS ACCEPTANCE OF THE NSP'S DEMANDS THAT ANTI-SECULAR CRIMES BE EXCLUDED FROM THE SSC'S JURISDICTION. THE RR HAS PUBLICLY ANNOUNCED IT WILL NOT SUPPORT SUCH LEGISLATION. THE DEFECTION OF THE TINY RR (10 DEPUTIES) WILL NOT IN ITSELF THREATEN PASSAGE OF THE JP BILL WHICH SHOULD RECEIVE THE SUPPORT OF THE JP, NSP, NATIONALIST ACTION PARTY, DEMOCRATIC PARTY (DP) AND MOST INDEPENDENTS -- A HEALTHY LIMITED OFFICIAL USE

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MAJORITY OF THE NATIONAL ASSEMBLY. YET IT IS RUMORED THAT FEYZIOGLU IS ACTING AS A SPOKESMAN FOR THE MILITARY, AND THAT SUSPICION COULD RESULT IN THE DEFECTION OF FXZ OF JP DEPUTIES

ALREADY DISPLEASED WITH NSP EXCESSES AND UNHAPPY WITH THE PROSPECT OF THE OXIKIST PARTY (STRONG SPECULATION BEING AN IMPORTANT FEATURE OF ATATURKISM).

3. BEFORE EXAMINING THE REASONS FOR THE FUROR SURROUNDING THE ISSUE OF REESTABLISHING THE COURTS, A BRIEF REVIEW OF THE COMPOSITION AND PURPOSE OF THE SSC'S IS NECESSARY. ORIGINALLY ESTABLISHED IN 1973 BY A CONSTITUTIONAL AMENDEMENT DURING THE MARTIAL LAW PERIOD, THE COURTS ARE CHARGED WITH THE RESPONSIBILITY OF TRYING CRIMES "COMMITTED AGAINST THE TERRITORIAL AND NATIONAL INTEGRITY OF THE STATE, AGAINST THE FREE DEMOCRATIC SYSTEM, AND AGAINST THE REPUBLIC ..."

A UNIQUE FEATURE OF THE COURTS IS THEIR JOINT CIVILIAN-MILITARY COMPOSITION. THE COUNCIL OF MINISTERS IS ABLE TO EXERT SIGNIFICANT CONTROL OVER THE SELECTION OF JUDGES AND PROSECUTORS OF THE COURT IN THAT IT PREPARES THE PANEL OF CANDIDATES. CIVILIAN APPOINTMENTS ARE DETERMINED BY THE HIGH COUNCIL OF JUDGES AND THE HIGH COUNCIL OF PUBLIC PROSECUTORS; MILITARY APPOINTMENTS BY THE MINISTER OF DEFENSE. UNDER EARLIER ENABLING LEGISLATION, THE COURTS WERE GIVEN A BROAD MANDATE OVER NUMEROUS CRIMES WHEN THESE COULD BE INTERPRETED AS THREATENING THE SECURITY OF THE STATE, INCLUDING VIOLATIONS OF THE LAWS ON RALLIES AND DEMONSTRATIONS, COLLECTIVE BARGAINING AND STRIKES AND ASSOCIATIONS.

4. PRINCIPAL OPPOSITION TO THE SSC'S COMES FROM THE TURKISH LEFT. EVER FEARFUL OF PROSECUTION FOR COMMUNISTIC ACTIVITIES, LEFTIST AND LEFTIST ORGANIZATIONS HAVE OPPOSED FROM THE INCEPTION A COURT SYSTEM FOCUSED UNIQUELY ON QUESTIONS OF SECURITY AND OVER WHICH THE GOVT AND MILITARY HAVE SUCH GREAT CONTROL. WITH DEMIREL AND HIS NATIONALIST FRONT COALITION IN CONTROL OF THE GOVT, LEFTIST ANXIETY ABOUT THE THREAT POSED BY THE COURTS HAS INCREASED. THE RPP, CONCERNED WITH MAINTAINING ITS LEFT FLANK, HAS STEADFASTLY OPPOSED THE SSC BILLS, BUT WAS UNSUCCESSFUL IN PERSUADING THE TURKISH LABOR CONFEDERATION TO COOPERATE WITH THE MORE RADICAL DISK CONFEDERATION AND THE RPP IN OPPOSITION TO ANY SECURITY COURT LEGISLATION.

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5. MORE DIFFICULT TO ASSESS IS WHY DEMIREL IS RISKING THE COLLAPSE OF HIS COALITION BY PRESSING FOR THE ENACTMENT OF NEW LEGISLATION. OBVIOUSLY THE MAINTENANCE OF HIS IMAGE AS A STRONG ANTI-COMMUNIST PLAYS A ROLE IN HIS THINKING. YET, THE SECURITY COURTS ADD LITTLE TO HIS ARSENAL OF WEAPONS TO COMBAT COMMUNISM. THE SECURITY COURTS HAVE JURISDICTION OVER NO CRIMES WHICH COULD NOT BE TRIED BY EXISTING CRIMINAL COURTS. PUBLIC PROSECUTORS, WHETHER ASSIGNED TO SECURITY OR CIVIL AND CRIMINAL COURTS, MAY BE REQUESTED BY THE MINISTER OF JUSTICE TO INITIATE INVESTIGATIONS OR BRING CHARGES. AT BEST IT APPEARS THAT THE CONTINUANCE OF THE SECURITY COURTS GIVES THE GOVT A SOMEWHAT BETTER CHANCE TO WIN CONVICTIONS. HOWEVER, TO GAIN THIS, DEMIREL IS CONSEQUENTLY FACED WITH AN INTRA-COALITION, AND POSSIBLY INTRA-JP, SQUABBLE ENGENDERED BY THE NSP'S PROBABLY LEGITIMATE CONCERN THAT CONTINUATION OF THE SSC

MANDATE TO PROSECUTE ANTI-SECULAR ACTIVITIES POSES A THREAT TO THE PARTY'S EXISTENCE.

6. COMMENT: IT REMAINS TO BE SEEN WHETHER DEMIREL, THE GREAT COMPROMISER, WILL BE ABLE TO BOTH PATCH THE RIFTS IN HIS COALITION AND OBTAIN PASSAGE OF THE LEGISLATION. IT SEEMS LIKELY THAT HE HAS THE VOTES TO PASS SSC LEGISLATION WHICH EXCLUDES ANTI-SECULAR CRIMES, AND IT IS ALSO LIKELY, BUT LESS SO, THAT RR CHAIRMAN FEYZIOGLU WILL NOT TAKE HIS PARTY OUT OF THE COALITION, EVEN THOUGH THE RR MAY OPPOSE OR ABSTAIN ON THE GOVT BILL. (FEYZIOGLU REPORTEDLY THREATENED TO RESIGN SEPT 17 BUT WAS DISSUADED BY DEMIREL.) IN THE MEANTIME, ECEVIT AND THE RPP ARE BITTERLY RESISTING WHAT THEY CALL "NON-MILITARY MARTIAL LAW". REGARDLESS OF THE PASSAGE OR FAILURE OF THE LEGISLATION, THE RPP BY MAINTAINING ITS OPPOSITION TO ANY SSC LEGISLATION WILL HAVE A TAILORMADE ISSUE TO USE IN THE COMING CAMPAIGN.
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